

Regulatory Impact Review

Introduction

The NOAA Fisheries Service requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: (1) it provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; (2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem; and, (3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR also serves as the basis for determining whether the proposed regulations are a “significant regulatory action” under the criteria provided in Executive Order (E.O.) 12866 and provides information that may be used in conducting an analysis of impacts on small business entities pursuant to the Regulatory Flexibility Act (RFA). This RIR analyzes the expected effects that this action would be expected to have on the commercial and recreational snapper grouper fisheries, with emphasis on the red grouper segment. Additional details on the expected economic effects of the various alternatives in this action are included in **Chapter 4** and are incorporated herein by reference.

Problems and Objectives

The purpose and need, issues, problems, and objectives of the proposed amendment are presented in **Chapter 1** and are incorporated herein by reference. The most recent stock assessment determined red grouper to be overfished and undergoing overfishing. The general purpose, therefore, of Amendment 24 to the Fishery Management Plan (FMP) for the Snapper Grouper Fishery of the South Atlantic Region is to implement a rebuilding plan to end overfishing and rebuild the spawning stock of red grouper. Management measures affecting the commercial and recreational sectors accompany the rebuilding plan.

Methodology and Framework for Analysis

This RIR assesses management measures from the standpoint of determining the resulting changes in costs and benefits to society. To the extent practicable, the net effects of the proposed measures are stated in terms of producer and consumer surplus. In addition, the public and private costs associated with the process of developing and enforcing regulations on fishing for snapper grouper in waters of the U.S. South Atlantic are provided.

Description of the Fishery

A description of the South Atlantic snapper grouper fishery, with particular reference to red grouper, is contained in **Chapter 3** and is incorporated herein by reference.

Effects of Management Measures

Details on the economic effects of all alternatives are found in **Chapter 4** and are included herein by reference. The following discussion focuses mainly on the expected effects of the preferred alternatives.

Defining MSY and MSST for red grouper would not alter the current harvest or use of the resource. Specification of these measures would merely establish a benchmark for fishery and resource evaluation from which additional management actions for the species would be based, should comparison of the fishery and resource with the benchmark indicate that management adjustments are necessary. The impacts of these management adjustments will be evaluated at the time they are proposed. **Alternative 2 (Preferred)** for MSY is recommended in the most recent SEDAR and by the SSC, and therefore has a better scientific basis as to provide a more solid ground for management actions that have economic implications. In terms of potential economic effects of future management measures which may be enacted under a defined MSST, **Alternative 3 (Preferred)** would fall in the middle of the considered MSST alternatives.

A major economic issue associated with the choice of a rebuilding schedule relates to the cost/benefit configuration of the various alternatives over time. This cost/benefit configuration depends on the functional distance between current and target fishery status and the length of the rebuilding schedule. The length of the rebuilding period would determine how stringent the management measure should be; the shorter the rebuilding period, the more stringent would be the required management measures, but the sooner would the benefits also accrue. Conversely, longer rebuilding periods would require less stringent management measures, but benefits would accrue later. Among the alternatives considered for the rebuilding period, **Alternative 5 (Preferred)** would provide the least restrictive management measures over the rebuilding timeframe. However, future benefits would accrue the latest under this alternative.

Given the preferred alternatives for all other actions in this amendment, **Alternative 3 (Preferred)** for the rebuilding strategy would provide the third highest economic benefits among the alternatives considered. From a regional perspective for the commercial sector, **Alternative 2** would be economically superior in that it makes all constituents better off without making anybody worse off. For the recreational sector, **Alternative 2** would also provide superior economic outcome than the other alternatives. **Alternative 3 (Preferred)** is expected to generate for the commercial sector an additional profit of \$990,000 over the first 7 years of the rebuilding schedule relative to the no action alternative with an additional \$310,000 generated in years 8 through 10 assuming a discount rate of 7%. The effects of **Alternative 3 (Preferred)** on the recreational sector in terms of consumer surplus increases would range from \$0.84 million to \$3.86 million over four years or from \$3.86 million to \$14.1 million over 10 years, assuming a 7% discount rate.

In general, **Subalternative 2e (Preferred)** for the commercial/recreational allocation of total ACL would not result in changes to the economic status of both sectors. The main reason for this is that the allocation ratio under this alternative would be exactly the same as the historical distribution of harvests between the two sectors defined for the baseline or no action alternative.

Alternative 2 (Preferred) for ACL/OY would provide the largest ACL/OY, and thus would result in the largest positive economic effects to the commercial and recreational sectors in the short term. **Alternatives 5 and 6 (Preferred)** would help ensure the benefits from the highest ACL/OY would be realized.

Alternative 1 (No Action, Preferred) would not set a commercial ACT and therefore no economic effects on this sector are expected from this alternative.

Should the ACT become a binding constraint in terms of triggering the implementation of AMs on the recreational sector, then **Alternative 4 (Preferred)** would result in consumer surplus losses ranging from \$0.01 million to \$0.03 million over four years, or from \$0.98 million to \$4.52 million over 10 years assuming a 7% discount rate.

Both **Alternative 2 (Preferred)** and **Alternative 3 (Preferred)** for the commercial sector AM are expected to result in short-term profit reductions to the commercial sector. Over the long-term, however, these alternatives would provide better economic scenario for the commercial sector by addressing issues related to overfishing of the stock. With a relatively stable stock over time, future harvest would increase or at least would be stable. This stability could benefit the commercial sector financially by paving the way for more confident business planning and improvements in marketing and reliability of landings to dealers. Considering that the reported 2010 commercial landings of red grouper are higher than the currently preferred ACL alternative, applications of AM under **Alternatives 2 and 3 (Preferred)** may occur in the near future.

Subalternative 2b (Preferred), together with **Subalternative 3a (Preferred)**, would implement in-season AM for the recreational sector while **Alternative 4g (Preferred)** would implement a post-season AM. Relative to the no action alternative, these preferred alternatives would result in short-term economic losses to the recreational sector. The expectation, however, is for these measures to result in long-term economic benefits by providing better protection for the stock in order to achieve the rebuilding target within the rebuilding timeframe. Considering the fact that the reported 2010 recreational harvests of red grouper are well below the preferred ACL in this amendment, there is low probability that harvests would exceed the ACL in the near future. Thus, there is also a low probability that AMs under **Alternatives 2b, 3a, and 4g (Preferred)** would be triggered in the near future.

Public and Private Costs of Regulations

The preparation, implementation, enforcement, and monitoring of this or any Federal action involves the expenditure of public and private resources which can be expressed as costs associated with the regulations. Costs associated with this amendment include:

Council costs of document preparation, meetings, public hearings, and information dissemination..... \$300,000

NOAA Fisheries administrative costs of document preparation, meetings and review	\$400,000
Annual law enforcement costs	unknown
TOTAL	\$700,000

Law enforcement currently monitors regulatory compliance in these fisheries under routine operations and does not allocate specific budgetary outlays to these fisheries, nor are increased enforcement budgets expected to be requested to address components of this action. In practice, some enhanced enforcement activity might initially occur while the fishery becomes familiar with the new regulations. However, the costs of such enhancements cannot be forecast. Thus, no specific law enforcement costs can be identified.

Determination of Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a “significant regulatory action” if it is expected to result in: (1) an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this executive order. Based on the information provided above, this regulatory action would not meet the first criterion. Therefore, this regulatory action is determined to not be economically significant for the purposes of E.O. 12866.